

JAMES WATKINS

IBLA 81-341

Decided April 9, 1981

Appeal from the decision of the Idaho State Office, Bureau of Land Management, declaring certain mining claims abandoned and void. IMC 14734 through IMC 14746.

Affirmed.

1. Federal Land Policy and Management Act of 1976: Recordation of Mining Claims and Abandonment--Mining Claims: Abandonment

The failure to file the instruments required by sec. 314 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. § 1744 (1976), and 43 CFR 3833.1 and 3833.2, in the proper Bureau of Land Management office within the time periods prescribed therein conclusively constitutes abandonment of the mining claim by the owner.

APPEARANCES: James Watkins, pro se.

OPINION BY ADMINISTRATIVE JUDGE HENRIQUES

James Watkins has appealed the decision of the Idaho State Office, Bureau of Land Management (BLM), declaring mining claims, IMC 14734 through IMC 14746, abandoned and void for failure to timely file evidence of assessment work for the claims by December 30, 1980.

BLM received the required documents on January 2, 1981. In his statement of reasons, appellant explains that he had lost his copy of his 1980 proof of labor and sent for another, which he received on December 29, 1980. Believing he had until December 31 to timely file the document with BLM, he mailed it to BLM on December 30, 1980, by express mail which normally guarantees 1-day delivery.

[1] Section 314(a) of the Federal Land Policy and Management Act of 1976 (FLPMA), 43 U.S.C. § 1744(a) (1976), requires the owner of an unpatented mining claim located prior to October 21, 1976, to file evidence of assessment work for the claim with BLM within the 3-year period following that date and prior to December 31 of each year thereafter. The corresponding Departmental regulation 43 CFR 3833.2-1(a) reads:

(a) The owner of an unpatented mining claim located on Federal lands on or before October 21, 1976, shall file in the proper BLM office on or before October 22, 1979, or on or before December 30 of each calendar year following the calendar year of such recording, which ever date is sooner, evidence of annual assessment work performed during the preceding assessment year or a notice of intention to hold the mining claim. [Emphasis added.]

Failure to so file is considered conclusively to constitute abandonment of a claim under section 314(c) of FLPMA, 43 U.S.C. § 1744(c) (1976), and 43 CFR 3833.4.

Even if appellant's submission had been received on December 31, 1980, it would have been untimely. This Board has no authority under the statute to excuse the failure to timely comply. Lynn Keith, 53 IBLA 192, __ I.D. __ (1981).

Accordingly, pursuant to the authority delegated to the Board of Land Appeals by the Secretary of the Interior, 43 CFR 4.1, the decision appealed from is affirmed.

Douglas E. Henriques
Administrative Judge

We concur:

Bernard V. Parrette
Chief Administrative Judge

Edward W. Stuebing
Administrative Judge

